GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/985/2016 /364 Dated: 13th February, 2017

Order in Revision No. 305 /2017 under section 25-D of the Customs Act, 1969 against Valuation Ruling No.992/2016 dated 14-12-2016

i. This copy is granted free of charge for the private use of the person to whom it is issued.
ii. An appeal against this Order-in-Revision lies to the Appellate Tribunal, Customs having jurisdiction, under section 194-A of the Customs Act, 1969, within stipulated period as prescribed under the law. An appeal should bear a court fee stamp of Rs.1000/- (Rupees one thousand) only as prescribed under schedule-II item 22 of the Court Fee Act, 1870 and must be accompanied by a copy of this Order.
iii. An extra copy of appeal, if filed, should simultaneously be sent to this office for information and record.
iv. If an appeal is filed, the appellant should state whether he desires to be heard in person or through an advocate.

M/s Toy Centre
M/s Ahmed International ..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi ..... RESPONDENT

Date(s) of hearing	10-01-2017
For the Petitioners	Mr. Rana Zahid Hussain Advocate
For the Respondent	Mr. Safdar Abbas, Principal Appraiser

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.992/2016 dated 14-12-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. Being aggrieved and dissatisfied with the Valuation Ruling No. 992 of 2016 dated 14.12.2016 (hereinafter referred to as 'the impugned Ruling'), the petitioner prefers the instant Revision Petition under section 25-D of the Customs Act, 1969, before this Hon'ble Authority on the following facts and grounds, namely:

Facts

a) That the petitioner, M/s Toy Centre, Lahore, is a trading firm engaged in the import and sale of various children's toys from China. The Petitioner has been engaged in the trade for numerous years and has established considerable goodwill for itself in the business circles. The Petitioner scrupulously discharges its liabilities under the various laws and

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has contributed huge sums to the National Exchequer by way of, inter alia, diligent payment of duties and taxes.

b) That the Petitioner is seriously aggrieved and prejudiced by the issuance of the impugned Ruling, whereby the Respondent has fixed values for, inter alia, different kinds of inflatable children's toys made of tarpaulin cum PVC material of Chinese origin, as listed at Sr. No. 11, Annexure-A of the impugned Ruling, in a manner which is ultra vires the law, highly prejudicial to the import / trade of the said items as well as in direct violation of the directives issued by this learned Authority vide Order-in-Revision No.236 of 2016 dated 18.08.16. The Respondent is compelled by the law, including but not limited to Sections 25 and 25A of the Customs Act, 1969, to carry out a proper and lawful determination of values for the purposes of assessment of imported goods, which has to be in accordance with the actual price paid / payable for the said goods at the time of purchase for import into Pakistan. Instead, however, while acting in a highly arbitrary, unlawful and prejudicial manner, the Respondent has fixed values of the children's toys at rates which are much higher than the actual price paid / payable for the imported goods, as has also been demonstrated hereinbelow. As a result of the unlawful fixation of values, which is impermissible under the law, duties and taxes which are not leviable / payable under the law are now being demanded in respect of the imported children's toys by the respective clearance Collectorates. The Petitioner submits a brief background to the instant controversy as follows.

c) That before embarking on the background of the instant controversy, it is pertinent to identify the goods being imported by the Petitioner in respect of which the impugned Ruling is causing serious prejudice, loss and harm to the Petitioner. These items, as they appear in the impugned Ruling, are as follows,

S. No.	Description of goods	Category	Specification	PCT	Proposed PCT for WeBOC	Origin	Customs Values (C&F) in US$ / Kg
11.	Tarpaulin cum PVC Material	Inflatable	Swimming Pool	9503.0010 9503.0090	9503.0010.2050 9503.0090.2050	China	7
			Jumping Castle	9503.0010 9503.0090	9503.0010.2080 9503.0090.2080	China	4.5
			Bounce Slides	9503.0010 9503.0090	9503.0010.2120 9503.0090.2120	China	4.8
			Other	9503.0010 9503.0090	9503.0010.2150 9503.0090.2150	China	4

d) That, prior to the issuance of the impugned Ruling, the assessment of the items listed hereinabove, namely swimming pools, jumping castles, bounce slides and other inflatable toys made of tarpaulin cum PVC material of Chinese origin (hereinafter collectively referred to as 'the items'), was conducted under Section 25 as well as

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Section 25A of the Customs Act, 1969 (hereinafter 'the Act, 1969'), as and when instruments under Section 25A of the Act, 1969, were issued.

e) That upon issuance of Valuation Ruling No. 410 of 2012 on 12.01.2012, the assessment of the items was carried out under Sr. No. 3 thereof, being 'Simple Plastic Toys (non-mechanical / non-electrical)' @ US$ 1.55/Kg. While the Valuation Ruling No.410 of 2012 was in field, the assessment of the items was conducted in terms of Section 25A of the Act, 1969. Copy of the Valuation Ruling No. 410 of 2012 is attached.

f) That Valuation Ruling No. 410 of 2012 was withdrawn / revised upon issuance of the Valuation Ruling No. 871 of 2016 on 20.06.2016. Although the values of the items remained at or about the values that had been determined through the earlier ruling, i.e. Valuation Ruling No. 410 of 2012, the Respondent, on his own motion and without any evidence in support thereof, deemed the earlier ruling to be unreflective of the prevailing prices in the international market. While Valuation Ruling No. 410 of 2012 had been issued in respect of assessment of a variety of children's toys listed therein, the Respondent failed to make reference to any individual item while deeming the said ruling to be unreflective of the international prices, which also reflects the arbitrary nature of the acts of the Respondent.

g) That in spite of the above, the Respondent initiated proceedings for determination of values of various toys, including the items, which culminated in the issuance of the highly prejudicial, arbitrary and unlawful Valuation Ruling No. 871 of 2016 through which values for the items, as well as other toys, had been illegally fixed. Copy of the Valuation Ruling No. 871 of 2016 is attached.

h) That as a result of the unlawful fixation of values through the Valuation Ruling No. 871 of 2016, the Petitioner, as well as other importers of toys, including the items, filed revision petitions before this learned Authority whereby the highly arbitrary, prejudicial and illegal acts of the Respondent in respect of the issuance of the Valuation Ruling No. 871 of 2016 were highlighted. The Petitioner, inter alia, highlighted the fact that the actual price paid / payable for the goods at the time of import into Pakistan was substantially lower than what had been determined through the Valuation Ruling No. 871 of 2016, including the items listed at Sr. Nos. 71 & 72. While the value purported to have been determined was US$8.00/kg for inflatable swimming pool of Chinese origin, the actual price paid / payable for the swimming pool of Chinese origin at the time of import into Pakistan remained significantly lower, i.e. around eight (08) times lower than what had been unlawfully fixed by the Respondent.

i) That, after hearing the Petitioner as well as the Respondent, this learned Authority was pleased to pass Order-in-Revision No. 236 of 2016 dated 18.08.2016. Through the Order-in-Revision No. 236 of 2016, this learned Authority, while referring to the items, stated as follows,

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"11. Secondly, values determined under serial No. 71 & 72 for inflatable toys (swimming [pool]) are found to be much higher than values of the types of inflatable toys mentioned from at serial No. 73 to 78 and are these in consistent.

12. In view of above, serial No.49, 50, 71 & 72 of the Annexure to Valuation Ruling No.871/2016 dated 20.06.2016 are deleted and the clearance Collectorates are advised to finalize their values under section 25 on case to case basis, in accordance with merits of each individual case. The Director Customs (Valuation) is directed to conduct a fresh inquiry in respect of these items and issue a separate Valuation Ruling, considering all aspects, outlined above."

As evident from the foregoing extract, this learned Authority was pleased to make, inter alia, two findings in respect of the items, and in particular inflatable swimming pools; firstly, this learned Authority was of the view that the value fixed in relation to inflatable swimming pools, i.e. US$ 8.00/kg, was far in excess of the actual price paid / payable for the inflatable swimming pools especially in light of the value fixed for jumping castles, bouncing slides and others. Secondly, this learned Authority was pleased to delete the entries in the Valuation Ruling no.871/2016 in respect of the items for proper determination of after de-novo consideration by the Respondent in light of the findings contained hereinabove. Copy of the Order-in-Revision No.236 of 2016 is attached.

j) That after Order-in-Revision No.236 of 2016 had been passed by this learned Authority, the assessment at the time of import of the items was conducted in accordance with the provisions of Section 25 of the Act, 1969. In doing so, the respective clearance Collectorates examined each imported consignment individually and scrutinized all relevant information provided in relation to such consignments. The assessing officers of the clearance Collectorates, after detailed scrutiny in accordance with the detailed provisions of Section 25 of the Act, 1969, allowed clearance of the imported consignments of the items after payment of duties and taxes in accordance with the value that had been assessed. The value assessed by the clearance Collectorates in respect of the items, especially the inflatable swimming pools, was much lower than the value determined through the Valuation Ruling No. 871/2016.

k) That even prior to the issuance of the Valuation Ruling No.871 of 2016, i.e. during the operation of the earlier Valuation Ruling No.410 of 2012, the actual price / paid payable for the inflatable swimming pools of Chinese origin was significantly lower than the value that had been arbitrarily and unlawfully fixed through the Valuation Ruling No.871 of 2016. Copies of Goods Declarations are attached.

l) That while totally defying the directions of this learned Authority and the dictates of law, the Respondent has yet again issued a highly unlawful, arbitrary and prejudicial Valuation Ruling No. 992 of 2016, i.e. the impugned Ruling. The Respondent purported to initiate proceedings for determination however only held a single meeting

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on 29.11.2016 which was also after more than three months of the directions given by this learned Authority vide the aforesaid Order-in-Revision. Instead of providing the Petitioner, as well as other importers of the items, fair and reasonable time to aid the Respondent in carrying out a lawful determination, the Respondent proceeded to fix arbitrary values for the items, including inflatable swimming pools of Chinese origin.

m) That in order to convey a false impression, the Respondent has claimed that the impugned Ruling has been issued pursuant to a lawful determination. However, the impugned Ruling is self-evident that the Respondent has merely copied the items listed at Sr. Nos. 71 to 78 of the Valuation Ruling No.871 of 2016 and reissued the same arbitrary values. In respect of inflatable swimming pools of Chinese origin, the Respondent has fixed the value in the impugned Ruling after giving an arbitrary discount of $1.00/kg to the value contained in the Ruling No.871 of 2016. This is so despite the directions of this learned Authority, who was pleased to direct the Respondent to at least consider the values of the other items, without prejudice to the fact that even those values remain on the higher side.

n) That, furthermore, the Respondent is under a strict obligation to carry out a proper determination in accordance with the provisions of Sections 25 and 25A of the Act, 1969. In terms thereof, the Respondent was bound to consider and implement the modes of assessment contained in Section 25 in a sequential manner. Where any mode of assessment was not applicable due to the reasons stated therein, the Respondent had to be provide such lawful reason to discard such mode of assessment. As such, the values assessed by the respective clearance Collectorates, as also evident from the attached goods declarations, for identical goods were applicable and had to be adhered to, in terms of sub-section (5) of Section 25 of the Act, 1969. Instead, however, in a manner which is patently ultra vires the law, the Respondent arbitrarily discarded the provisions of sub-sections (5) & (6) of Section 25 of the Act, 1969, and the evidences available thereunder, without providing any lawful reasons therefor.

o) That without prejudice to the foregoing, the Respondent has also incorrectly applied sub-section (7) of Section 25 of the Act, 1969. The Respondent has adopted sub-section (7) in order to justify the arbitrary fixation of values for the items through a gross misreading of the provisions of Section 25 of the Act, 1969. The Respondent has stated that

"*5. Method adopted to determined Customs values: [...] In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, and customs values were determined accordingly.*"

It is apparent from the foregoing passage that the Respondent has interpreted sub-section (7) as being solely contingent on the findings of some market survey. It is submitted that this interpretation and application of sub-section (7) is misconceived and

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unsustainable in light of the provisions of sub-section (7). Without prejudice to the preceding, the Respondent has state that the values were 'determined' in accordance with some market survey, whereas neither any market survey has been conducted nor has the Petitioner, or any other importer for that matter, has been invited to participate in a market survey. The market survey / enquiry, if at all conducted, has been conducted on an ex-parte basis and without associating the necessary stakeholders thereto. Besides, Rule 119 of the Customs Rules, 2001, has also been violated and the market survey has merely been utilized as a tool for imposition of arbitrary and unlawful values.

p) That even otherwise, it is evident from the facts and circumstances of the case that the Respondent has utterly failed to establish / justify the values arbitrarily and unlawfully fixed for the items through the impugned Ruling. The Respondent has not carried out any exercise for determination of values of the items and instead has caused fixation of values which is not permissible under the law. Even the materials used for the purposes of manufacturing the items, which themselves are simple items with no mechanical or electrical parts, have seen a decrease in value over the past few years. These materials, being PVC, are readily available and can be moulded into the shape of the item with ease and, as such, are not costly to manufacture. As such, the value fixed by the Respondent through the impugned Ruling is not even plausible and is inconsistent with the actual price paid / payable for the items at the time of import into Pakistan.

q) That in light of the foregoing, the petitioner submits the following grounds in support of this Revision Petition namely:

3. Grounds

a) That the actions of the Respondent, including the issuance of the impugned Ruling, are in violation of the dictates of law, including but not limited to Sections 25 and 25A of the Act, 1969, and, hence, the impugned Ruling is liable to be set aside with immediate effect.

b) That the impugned Ruling has been issued without adherence to the provisions of Sections 25 and 25A of the Act, 1969. The impugned Ruling is merely a reiteration of the values contained in Valuation Ruling No.871 of 2016 and reflects that the Respondent has not carried out any determination whatsoever.

c) That the Respondent has fixed the value of inflatable swimming pools of Chinese origins at US$7.00/kg without assigning any reasons thereto and, instead, has merely regurgitated the same value contained in the Ruling No.871 of 2016 after making an arbitrary discount of US$1.00/kg.

d) That the Respondent has intentionally ignored the provisions / methods contained in sub-sections (5) and (6) of Section 25 of the Act, 1969, whereunder the Respondent was

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under a strict obligation to make determination of values in accordance with the assessment of goods which are identical or similar to the items in question. Instead, the Respondent has made a general statement that the values under the said sub-sections could not be relied upon. The Respondent has made this statement in relation to the dozens of items listed in the impugned Ruling but has failed to provide any cogent basis therefore. As such, the impugned Ruling is liable to be set aside as being ultra vires the Act, 1969.

e) That, furthermore, the Respondent has incorrectly interpreted the provisions of sub-section (7) of Section 25 of the Act, 1969. The Respondent has assumed that only a market inquiry needs to be conducted thereunder which is not correct. Without prejudice to the foregoing, even the market inquiry purported to have been conducted by the Respondent is unlawful and unconstitutional as being ex-parte and without any proof whatsoever.

f) That the Respondent has also acted in violation of the directions of this learned Authority given vide Order-in-Revision No. 236 of 2016. The Respondent has failed to reconcile the difference between the various items highlighted by this learned Authority and, instead, in a seemingly vindictive fashion, has reiterated the values contained therein except for inflatable swimming pools the price whereof has been marginally decreased but is still much higher than the actual price paid / payable therefor at the time of import. In addition to the above, the value of inflatable swimming pools of Chinese origin is still significantly higher than the value of the other items, which was the mischief that this learned Authority had sought to rectify through the Order-in-Revision No. 236 of 2016. As such, the directions of this learned Authority remain to be complied with by the Respondent.

g) That the evidences provided by the Petitioner as well as the import data for the items, especially inflatable swimming pools, shows that the actual price paid / payable for the items at the time of import into Pakistan is significantly lower than the values unlawfully fixed through the impugned Ruling. The Respondent would also have arrived at such values which have been assessed by the respective clearance Collectorates had a proper, lawful and bona fide exercise for determination of values of the items been carried out.

h) That the impugned Valuation Ruling has been issued in complete ignorance of the methods of valuation contained in section 25 of the Act, 1969. Section 25 of the Act, 1969, provides a set of comprehensive and sequential methods of determining customs values. These methods are to be strictly followed/ utilized for the purposes of determining values under section 25A of the Act, 1969, as has also been held in the landmark judgment of the Hon'ble Sindh High Court in the case of *Sadia Jabbar v/s Federation of Pakistan*. The impugned Valuation Ruling, not having been issued in accordance with the law, is liable to be immediately set aside and vacated.

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i) That it is pertinent to draw the attention of this Hon'ble Tribunal to paragraph 7 of the impugned Valuation Ruling, whereby the Respondent Director has attempted to direct the field formations to apply the transaction value under sub-section (1) of section 25 of the Act, 1969, wherever the said value is higher than the value fixed in the impugned Valuation Ruling. It is submitted that the inclusion of such a paragraph in a Valuation Ruling is ultra vires of the provisions of section 25 and 25A of the Act, 1969. This has also been held by the Hon'ble Sindh High Court in the case of *Sadia Jabbar (*supra), at paragraph 25, as follows,

> "25. […] Finally, it also purports to apply the "invoice value" (i.e. the transaction value) if it is "higher" than the value determined in the ruling. This ruling is therefore, also *ultra vires* section 25A."

j) That the Petitioner craves leave of this learned Authority to prefer further grounds at the time of arguments.

4. Prayer

In light of the preceding narrations, the Petitioner prays of this learned Authority that this petition be allowed, and

i. Declare that the impugned Valuation Ruling 992 of 2016 dated 14.12.2016 issued by the Respondent Director is ultra vires of the Constitution of Pakistan, 1973 and the same is arbitrary, illegal and mala fide.

ii. Set aside the impugned Valuation Ruling 992 of 2016 dated 14.12.2016 being violative of the methods set out in Section 25 of the Customs Act, 1969 and Rules made there-under.

iii. Direct that the imports of the items, namely inflatable swimming pools, jumping castles, bounce slides and others of Chinese origin by the Petitioner be assessed as per the actual transaction value / in accordance with Section 25 of the Act, 1969.

iv. Restrain the officers of the Respondent and all the clearance Collectorate of the goods from applying the impugned Valuation Ruling 992 of 2016 dated 14.12.2016till the final disposal of this review petition.

v. In the meanwhile, the pending and impending imports of the Petitioner be allowed to be provisionally released in terms of Section 81 of the Customs Act, 1969.

vi. Grant any other relief deemed just and appropriate in the circumstances of the case.

vii. Grant cost of the petition.

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5. The respondent department was asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:

6. Brief of the case that the customs values of Children Games and Toys were earlier determined vide Valuation Ruling No.871/2016, dated 20-06-2016. Revision Petitions were filed under Section 25D of the Customs Act, 1969, before, the Director General of Customs Valuation, Karachi by M/s. N.T. Computers and Others, which were disposed of vide Order-in-Revision No.236/2016 DG(V)Val.Rev./839/2016/9300, dated 18-08-2016. The Director General had ordered to conduct fresh inquiries and issue separate Valuation Rulings for children games and toys. Therefore, this Directorate General initiated an exercise for determination of customs values of Children Games.

7. Meeting with stakeholders was held on 29-11-2016. The importers were also requested to furnish the following documents:-

a) Invoices of imports during last three months showing factual value.
b) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
c) Copies of Contracts made / LCs opened during the last three months showing the value of item in question.
d) Copies of Sales Tax Invoices issued during last four months showing the difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers.

8. The requisite documents were not submitted by any of the stakeholders. Fresh inquiries, including online verifications, were conducted in light of orders of the Director General Customs Valuation.

9. Valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

10. PARAWISE COMMENTS

FACTS

1: Need no comment being related to introduction of the petitioner as importers

2: Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the

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foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

3: Need no comment being related to identification of items imported by the petitioner.

4: Need no comment being related to previous assessment of the subject goods under Section 25 as well as Section 25A of the Customs Act, 1969.

5: Need no comment being related to previous Valuation Ruling No.410/2012, dated 12-01-2012.

6: Need no comment being related to comparison of Valuation Ruling No.871/2016, dated 26-06-2016, with Valuation Ruling No.410/2012, dated 12-01-2012.

7 & 8: Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

9 & 10: Need no comment being related to previous Order-in-Revision No.236/2016, dated 18-08-2016.

11 & 12: Need no comment being related to comparison of Valuation Ruling No.871/2016, dated 26-06-2016, with Valuation Ruling No.410/2012, dated 12-01-2012.

13 & 14: Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

15: Denied. Though that any valuation method whichever is applicable can be applied while determining the customs value, but this Directorate determine the customs value by exhausting all valuation methods sequential order and Consequently, customs values were determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969.

16: Denied. The petitioner have not furnished any corroboratory documents in support of values of raw material, cost of manufacturing etc. etc. to arrive at the the customs values of the goods in question.

17: Need no comments being related to following grounds.

11. Grounds

A & B Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

C: Denied. The customs values have been determined under Section 25 (7) of the Customs Act, 1969, after obtaining the local market prices.

D & E: Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

F: Need no comments being related to previous Order-in-Revision No.236/2016.

G: Denied. The petitioner have not furnished the requisite documents, particularly copies of Sales Tax Invoices issued during last four months showing the difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers. In this regard, the petitioner has not furnished any acknowledgement receipt for providing the requisite documents/evidences.

H: Denied. It is submitted that the valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at Customs value of Children Games. Transaction value method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs and incomplete descriptions. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but could not be relied upon due to wide variation in the items and different prices were being declared for similar and identical items. Therefore, customs values could not be determined under section 25(5) & (6) ibid. In view of the foregoing position, it was decided to conduct local market survey in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969 and customs values were determined accordingly.

I: Denied. Paragraph-7, of the impugned Valuation Ruling relates to in cases where declared/transactional values are higher than the customs values determined in the impugned Valuation Ruling.

J: Need no comments being related to further grounds at the time hearing.

It is respectfully prayed that the customs values of the subject goods were determined after associating all stakeholders and after following valuation methods given in Section 25 of the Customs Act, 1969, and customs values finally determined under Sub-Section (7) of Section 25 of the Customs Act, 1969. On other side no one stakeholder furnished the requisite import documents, enabling this Directorate to examine the grievances of the stakeholders. Accordingly, in the absence of the same the revision application cannot be examined and is liable to rejected.

ORDER

12. Hearing in this case was fixed on 12-01-2017. Rana Zahid Hussain, Advocate appeared on behalf of M/s.Ahmed International and Toy Centre Inflatable toys. The learned Advocate challenged Valuation Ruling No.992/2016, dated 14-12-2016 of Chinese products only i.e. Inflatable Swimming Pool, Jumping Castle, Bounce Slide and others. He stated that previously values of the inflatable toys were determined at US$ 8.00/kg (Swimming Pool etc.). Director General of Customs Valuation referred the case back to the Director, Customs Valuation by deleting four (4) serial numbers. The Director, Customs Valuation again determined customs values of Swimming Pool at US$ 7.00/kg whereas the subject goods were assessed / cleared by the clearance Collectorates at US$ 1.30/kg to US$ 1.50/kg. Whereas values determined in the impugned Valuation Ruling of Jumping Castle at US$ 4.50/kg and Inflatable Bounce Slides of China origin at US$ 4.80/kg and others at US$ 4.00/kg. The Advocate contended that it should be compared with plastic article (raw material) which is available at US$ 1.80/kg of Chinese origin. The advocate also stated that prices from international websites retrieved and observed the price range of plastic toys/ baby pool and assorted plastic toys from US$ 0.95/kg, US$ 1.15/kg, US$ 1.95/kg and US$ 1.18/kg.

13. The PA of the group produced record stated that he has no evidence available in the file. There is no working sheet available in the file. The PA (Revision) conducted the market inquiry and purchased small plastic pools for children which weighed US$ 1.95/kg and US$ 1.75/kg and worked back at less than or around US$ 2/kg.

14. The contention of the advocate caries weight. Simple plastic goods without any battery or other gadgets should not be fixed at $ 7000/MT. The prices of plastic inflatable items should be much lower. In view of the above facts, market enquiry, online prices retrieved from international websites and all information gathered from different sources were analyzed and customs values are determined as under:-

S.No.	Description	Goods	Origin	Customs Values US$/kg
01.	Tarpaulin cum PVC Material Inflatable	Swimming Pool	China	2.12
02.		Jumping Castle	China	2.08
03.		Bounce Slides	China	2.05

14. Remaining all values determined in the Valuation Ruling are maintained. Petition is disposed off accordingly.

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Toy Centre
M/s Ahmed International
Through G.A. Jahangir & Associates, Suite No.216,
Clifton Centre, Bl-5, Clifton, Karachi

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/ (North) Islamabad/(Central) Lahore.
3. Collector, MCC Appraisement (East)/ Appraisement (West)/Port M. Bin Qasim/ Preventive, Karachi.
4. Collector, MCC, Appraisement/Preventive, Lahore/Quetta/Peshawar/Faisalabad/ Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. Director, Customs Valuation, Karachi/Lahore.
6. Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for uploading in One-Customs and WeBOC database.
7. Asstt. Director (Review), Karachi.
8. All Deputy/Assistant Directors (Valuation)
9. Guard File.

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